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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

MI22-1559

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on \_\_\_\_\_

Signature Sent via Express Mail

Application Number

09/810,387

Filed

March 15, 2001

First Named Inventor

Craig M. Carpenter

Art Unit

1763

Examiner

R. Zervigon

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

Signature

assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

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Typed or printed name

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attorney or agent acting under 37 CFR 1.34.

27 Jun 2006

Date

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

\*Total of one forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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EV850821527



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application Serial No. .... 09/810,387  
Confirmation No. .... 8779  
Filing Date .... March 15, 2001  
Inventor .... Craig M. Carpenter  
Assignee .... Micron Technology, Inc.  
Group Art Unit .... 1763  
Examiner .... R. Zervigon  
Attorney's Docket No. .... MI22-1559  
Customer No. .... 021567  
Title: .... Chemical Vapor Deposition Apparatuses and Deposition Methods

**ATTACHMENT TO PRE-APPEAL BRIEF REQUEST FOR REVIEW**

To: Mail Stop AF  
Commissioner for Patents  
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Alexandria, VA 22313

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**REMARKS**

Claims 1-29, 37, 38, 40-44, and 46 are pending in the application. Claim 44 stands rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement and the specification is objected to as allegedly adding new matter related to claim 44. The paragraph spanning pages 11-12 of the Response to October 7, 2005 Office Action and page 11 of the Response to December 21, 2004 Office Action address the subject rejections. The Office Actions to date have not set forth any grounds for rebuttal of Applicant's prior assertions. Instead, the Office Actions only

reiterated the same grounds for rejection. The Office Actions are merely conclusory regarding enablement and addition of new matter. Applicant previously enumerated a specific factual and legal analysis in support of prior amendments to the drawing and specification justifying their admission and satisfying the enablement requirement. However, the Office Actions have not included any rebuttal analysis of Applicant's factual and legal support.

MPEP § 706.07 states that final rejections "must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal" and "should include a rebuttal of any arguments raised in applicant's reply." Despite Applicant's prior request, no rebuttal arguments have been raised. Apparently, no valid rebuttal arguments exist. Accordingly, Applicant requests withdrawal of the lack of enablement rejection and of the objection to the specification.

Claims 41, 42, and 46 stand rejected as being anticipated by or obvious over Posa. Applicant previously addressed the rejection on pages 12-13 of the Response to October 7, 2005 Office Action (hereinafter "prior Response"). The Office does not now allege and has not previously alleged disclosure or suggestion of the claimed single-piece lid. The Office Action does not provide any mention of the claimed limitation. Such failure is understandable since review of Posa fails to reveal any disclosure or suggestion of a single-piece lid. Instead, manifold 100 in Posa describes a complex association of inlets and inlet valves operating with a process chamber and a vent chamber. No evidence exists that it is even possible to manufacture manifold 100 as a

single-piece. Given the complexity of manifold 100, such manufacture seems unlikely. Regardless, the Office Action fails to support any such conclusion with substantial evidence. At least for such reason, Posa fails to disclose or suggest every limitation of claim 46.

Also, page 4 of the Office Action acknowledges the failure of Posa to disclose or suggest the claimed lid having a thickness which is much less than a width of the lid. The lid thickness is also similar to the chamber body thickness. However, the Office Action alleges a motivation to modify Posa and optimize the relative dimensions of the lid and chamber body. Notably, the alleged "lid" in Posa is manifold 100. The Office Action fails to provide substantial evidence or technical reasoning that it is possible to modify manifold 100 in the manner alleged without frustrating the intended function or changing the principal of operation of manifold 100. Absent such evidence, no motivation may be considered to exist to modify manifold 100. Given the complexity of manifold 100, the existence of such evidence seems unlikely. Accordingly, Posa fails to teach those of ordinary skill to make the claimed apparatus.

At least for the indicated reasons, Posa fails to establish *prima facie* obviousness of claim 46. As may be appreciated from the express limitations of claims 41 and 42, such claims are also patentable over Posa. Claim 43 depending from claim 41 stands rejected as being unpatentable over Posa in view of Fukui. However, Fukui does not remedy and is not alleged to remedy

the above indicated deficiencies of Posa. Accordingly, claim 43 is patentable over the cited combination.

Claims 1, 2, 4-23, 25-29, and 46 stand rejected as anticipated by or obvious over Fukui. Claims 3 and 37-40 stand rejected as unpatentable over Fukui. Claim 24 stands rejected as unpatentable over Fukui in view of Waterfield. Claim 44 stands rejected as being unpatentable over Fukui in view of Jeong. Pages 14-15 of the prior Response address rejection of the listed claims. As asserted in the prior Response, the pending claims set forth express limitations for which no evidence exists of their disclosure in Fukui. Pages 5-7 of the Office Action allege that Fukui discloses the claimed limitations and refers to figures and text in Fukui as alleged support. However, review of the referenced figures and text fails to reveal substantial evidence in support of the allegations.

Instead, as previously asserted, the Office Action ignores certain express limitations in each rejected claim such that the alleged support in Fukui amounts to, at best, an incomplete disclosure or suggestion of the claim limitations. The Office Action must consider the subject matter of each claim, taken as a whole, meaning at least every express limitation. The Office Action does not allege a motivation to modify Fukui in a manner that discloses the missing limitations discussed on pages 14-15 of the prior Response. The other references relied upon do not remedy and are not alleged to remedy the deficiencies of Fukui discussed on pages 14-15 of the prior Response. At least for such reasons, the references and cited

combinations fail to disclose or suggest every claim limitation and the Office Action fails to establish *prima facie* obviousness.

Applicant herein establishes adequate reasons supporting patentability of claims 1-29, 37, 38, 40-44, and 46 and requests allowance of all pending claims in the next Office Action.

Respectfully submitted,

Dated: 27 Jun 2006

By:   
James E. Lake  
Reg. No. 44,854